

# Exhibit D

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT NEW YORK

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AGENCE FRANCE PRESSE,

Plaintiff,

- against -

10 Civ. 2730 (AJN)(MHD)

DANIEL MOREL,

Defendant and  
Counterclaim-Plaintiff,

- against -

AGENCE FRANCE PRESSE,

Counterclaim-Defendant,

- against -

GETTY IMAGES (US), INC.; THE  
WASHINGTON POST COMPANY; and AFP and  
GETTY Licensees Does 1-et al.,

Third-Party Defendants.

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**COUNTERCLAIM DEFENDANTS' WITNESS LIST**

Live Testimony

1. Vincent Amalvy

On January 12, 2010, Vincent Amalvy was AFP's Director of Photography for North and South America. Mr. Amalvy will testify as to various topics relevant to this case. He will provide background information regarding AFP, the AFP databases, and the relationship between Getty Images and AFP. Mr. Amalvy will also testify as to how AFP uses social media to gather information and photographs on breaking news events. He will testify as to various facts relevant to the photos-at-issue and this case, as well as what occurred on the night of the Haiti earthquake, how he found the photos-at-issue on Lisandro Suero's TwitPic page, and what took place in the following days. He will testify as to the captions/credits of the photos-at-issue, the restrictions placed by AFP on the photos-at-issue, the caption correction/credit change, the internal author name correction, and the kill notice. He will also testify as to his beliefs, intent, and understanding with respect to the facts relevant to this case. Using records from Twitter and TwitPic, as well as other documents, he will establish a timeline of events and testify

about the events relevant to this case. He will also testify as to what the term “stringer” or “STR” means, what watermarks mean including the Image Forum watermark, what “AFP/Getty/Suero” means, what “AFP/Getty/Morel” means, and what credit lines and captions denote generally. He will also testify as to AFP’s agreements with stringers generally, including the terms and fee structures of such agreements.

2. Gilles Tarot

Gilles Tarot is AFP’s Director of Sales & Marketing for North America. Mr. Tarot will testify as to various topics relevant to this case, including AFP’s licensing and sales of photos to subscribers generally, and to revenue and subscriber download figures in this case. He will also provide background information regarding AFP, AFP’s databases, and the relationship between Getty Images and AFP. He will testify as to what the term “stringer” means and what credit lines and captions denote in the industry. He will also testify as to AFP’s policies regarding infringing content. Mr. Tarot will testify regarding AFP’s online based photographic database, Image Forum.

3. Benjamin Fathers

Benjamin Fathers is the AFP photo desk chief for Europe and Africa, operating out of Paris. He will testify as to various topics relevant to this case including what a “stringer” is, and what, in his experience, credit lines and captions denote generally. He will also testify about his actions after the earthquake, including, but not limited to, under what circumstances he learned of Daniel Morel, that the photos-at-issues may have been Morel’s, and how he notified Vincent Amalvy regarding the same. He will also testify as to the caption correction/credit change and the kill notice. He will also testify as to AFP’s agreements with stringers generally, including the terms and fee structures of such agreements.

4. Eva Hambach

On January 12, 2010, Eva Hambach was the Deputy to the Director of Photography for North America and South America for AFP. Ms. Hambach will testify as to various topics relevant to this case including, but not limited to, her role in coordinating photography coverage for AFP and her role in determining whether certain photographs are placed into Image Forum or subsequently removed. She will provide background information regarding AFP, AFP’s practices for emergency news coverage, AFP’s news coverage of Haiti, AFP’s databases, and the relationship between Getty Images and AFP. She will testify as to AFP’s use of the photos-at-issue, caption correction/credit change procedures, internal author name correction procedures, the kill notice, and actions that AFP took after the kill notice was issued. She will also testify as to what the term “stringer” or “STR” means, what watermarks mean including the Image Forum watermark, what “AFP/Getty/Suero” means, what “AFP/Getty/Morel” means, and what credit lines and captions denote generally. Ms. Hambach will also testify regarding AFP’s use of staff photographers and stringers. She will also testify as to AFP’s

agreements with stringers generally, including the terms and fee structures of such agreements.

5. Patricia Aufderheide

Patricia Aufderheide is a University Professor in the School of Communication at American University, where she has taught since 1989. Ms. Aufderheide will testify regarding the contents of her expert report and industry standards regarding the use of multi-media sourced materials by news organizations.

6. Pancho Bernasconi

Mr. Bernasconi is Vice President for United States News and Sports for Getty Images. He will testify about his industry experience, Getty Images' business, editorial workflows and its relationships with AFP, the Washington Post and other customers, photographers and partners; employment of staff photographers and relationships with freelance photographers, including Mr. Morel; industry practices regarding the licensing of images, including standard licensing fees and ranges; Getty Images' practices relating to the intake and use of AFP photographs, caption corrections and kill notices; the use and display of photographs on the Getty Images website, including AFP photographs; the distribution of assets via a newswire, including the Mr. Morel's photographs; and the removal of photographs from the Getty Images website, including any AFP photographs. Mr. Bernasconi will testify also about the coverage of natural disasters and other such events, including the activities of the New York Picture Desk in the aftermath of the Haiti earthquake; other images Getty Images had of the earthquake; the importation and processing of Mr. Morel's photographs; AFP's caption corrections and kill notice for Mr. Morel's photographs; and actions taken by Getty Images to respond to those notices.

7. Andreas Gebhard

Mr. Gebhard is the Editorial Distribution Director for Getty Images. He will testify about his industry experience and Getty Images' editorial workflows, including its practices relating to the importation, processing and display of AFP photographs, caption corrections and kill notices; the use and display of photographs on the Getty Images website, including AFP photographs; the distribution of assets via a newswire, including Mr. Morel's photographs; search capabilities on the Getty Images systems; and the removal of photographs from the Getty Images website, including any AFP photographs. Mr. Gebhard will testify also about the activities of the New York Picture Desk in the aftermath of the Haiti earthquake; the importation and processing of Mr. Morel's photographs; AFP's caption corrections and kill notice for Mr. Morel's photographs; and actions taken by Getty Images to respond to those notices.

8. Catherine Calhoun

Ms. Calhoun is Vice President, Sales, for Getty Images. She will testify about her industry experience, Getty Images' business, and Getty Images' licensing services and

practices, including how customers license content from Getty Images, how Getty Images enforces the intellectual property rights of its partners and contributors, and revenues generated from licensing photographs, including Mr. Morel's photographs. She will also testify about the licensing of Mr. Morel's photographs to Getty Images' customers (including duration and revenue derived); Getty Images' communications with its customers about Mr. Morel's photographs; and the limitations on/lack of Getty Images' control over customers' use of licensed images.

9. Chris Eisenberg

Ms. Eisenberg is Director of Editorial Content Management for Getty Images. She will testify about Getty Images' applications, systems and practices relating to the importation, processing and display of photographs, including AFP photographs, into and on the Getty Images systems; search capability on the Getty Images systems; and the identification and removal of photographs, including Mr. Morel's photographs, from the Getty Images systems.

10. Heather Cameron

Ms. Cameron is a Senior Paralegal in the Legal Department of Getty Images. She will testify about Getty Images' business and its compliance with and respect for intellectual property laws; the identification and removal of photographs, including Mr. Morel's photographs, from the Getty Images website; Getty Images' communications with various parties and entities about Mr. Morel's photographs; and the limitations on/lack of Getty Images' control over customers' use of its licensed images.

11. Daniel Morel

Mr. Morel is a photographer and the Counterclaim Plaintiff in this case. He will testify as to various topics relevant to this case including, but not limited to, his actions regarding the taking of the photos-at-issue, his actions regarding the distribution of the photos-at-issue immediately following the Haiti earthquake, his relationship with Corbis and other news/photo entities, his sales history, his sales and profits from the photos-at-issue, his claimed damages in this case, and the contents of his deposition in this case.

12. Rita Rivera and/or another Corbis representative<sup>1</sup>

Ms. Rivera was formerly a photo editor with Corbis. She will testify as to Corbis's relationship with Mr. Morel; the facts and circumstances surrounding the distribution of Mr. Morel's photographs of the Haiti earthquake by each of Mr. Morel, AFP, Getty Images, and Corbis; Corbis's communications with each of Getty Images, AFP, Mr.

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<sup>1</sup> Mr. Morel objects to the inclusion of Ms. Rivera or any other Corbis representative on the AFP/Getty Images witness list on the grounds of relevance and unfair prejudice.

Morel, and Barbara Hoffman regarding Mr. Morel's photographs; any agreements entered to settle claims regarding use of Mr. Morel's photographs; the licensing of Mr. Morel's photographs including but not limited to revenues, licensees, marketing and distribution of same; Corbis's relations with its business partners; Corbis's credit practices; Corbis's procedures for distribution of photographs for editorial use; and Corbis documents produced in discovery.

Deposition Testimony

1. Jeremy Kessel

Jeremy Kessel is the lead of legal policy at Twitter. Mr. Kessel's deposition testimony will include a declaration that he is the custodian of the records produced by Twitter, and his testimony will authenticate and provide a foundation for the admissibility of documents produced by Twitter as evidence in the case. Mr. Kessel's deposition testimony will include testimony regarding various topics relevant to this case, including, but not limited to, a general description of the services offered under the Twitter platform; the timestamps on Twitter's records and user accounts; the content of Lisandro Suero's, Mr. Morel's, Mr. Amalvy's, and Mr. Fathers' Twitter accounts; what account information is capable of modification and when and by whom; and what various account holders communicated via Twitter in relations to the earthquake, Mr. Morel or the other images at issue in this case.

2. Noah Winecoff

Noah Winecoff is the Founder and CEO of TwitPic. Mr. Winecoff's deposition testimony will authenticate and provide a foundation for the admissibility of documents produced by TwitPic as evidence in the case. Mr. Winecoff's deposition testimony will also include testimony regarding various topics relevant to this case, including, but not limited to, a general description of the TwitPic application and the services offered by TwitPic; TwitPic account information, content, and/or timeline/profile postings for Mr. Amalvy, Mr. Morel, and Mr. Suero; the timestamps on TwitPic records and user accounts; that TwitPic assigns a unique identifier (e.g., XVALY) to each uploaded photograph; the time that each of the photos-at-issue were posted by Mr. Morel and Mr. Suero; and that user timestamps can be altered in one's account settings.